

JOHN DONBOLI (SBN: 205218)  
jdonboli@delmarlawgroup.com  
JL SEAN SLATTERY (SBN: 210965)  
sslattery@delmarlawgroup.com  
DEL MAR LAW GROUP, LLP  
322 8<sup>th</sup> Street, Suite 101  
Del Mar, CA 92014  
Telephone: (858) 793-6244  
Facsimile: (858) 793-6005

Attorneys for Plaintiff: DONNA R. NELSON, an individual and on behalf  
of all others similarly situated

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DONNA R. NELSON, an individual and on  
behalf of the general public,

Plaintiff,

vs.

BIC USA, Inc., a Delaware Corporation, and  
DOES 1 through 100, inclusive,

Defendants.

CASE NO: 3:07-cv-02367-LAB-RBB

**DECLARATION OF JOHN H.  
DONBOLI IN SUPPORT OF JOINT EX  
PARTE APPLICATION TO CONTINUE  
CLASS CERTIFICATION MOTION  
FILING DATES**

ACCOMPANYING DOCUMENTS:  
Ex Parte Application

District Judge: Judge Larry Alan Burns  
Mag. Judge: Judge Ruben B. Brooks

I, John Donboli, declare:

1. I am a partner at the law firm of Del Mar Law Group, LLP, and counsel of record  
in the above-captioned matter for plaintiff DONNA R. NELSON ("Plaintiff") and the putative  
class. I have personal knowledge of the facts set forth below and if called as a witness, could  
and would testify competently to them unless stated on information and belief and as to those  
facts I believe them to be true.

2. On behalf of Plaintiff and the putative class, I met and conferred with opposing counsel prior to submitting the Joint Motion of All Parties to Continue Litigation Dates Set Forth in Case Management Conference Order and submitted the proposed dates relating to the filing of the class certification motion after spending a considerable amount of time evaluating various factors, including obtaining necessary discovery from third-parties to support the filing of Plaintiff's motion for class certification.

3. Included in the proposed time schedule was the time-consuming and lengthy process of commissioning a survey of California consumers to determine the effect of an unqualified "Made in USA" representation on California consumers' purchasing decisions.

4. The results this consumer survey, which have yet to be fully analyzed by Plaintiff's consultant and potential expert witness and memorialized in a written declaration, are critical from Plaintiff's perspective in establishing the necessary elements of class certification. The commissioning of the consumer survey and the establishment of benchmark dates in the survey process were based in large parts on the dates originally set forth in the Joint Motion of All Parties to Continue Litigation Dates Set Forth in Case Management Conference Order dated May 14, 2008. It is my belief that Plaintiff and the putative class will be irreparably injured if the class certification filing date is not continued 28 days to provide Plaintiff an opportunity to evaluate the results of the consumer survey.

I declare under penalty of perjury under the laws of the state of California that the foregoing true and correct. Executed this 16<sup>th</sup> day of July 2008, at Del Mar, California.

**John H. Donboli**